



Entered on Docket
February 07, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

STUTMAN, TREISTER & GLATT, P.C.
FRANK A. MEROLA
(CA State Bar No. 136934)
EVE H. KARASIK
(CA State Bar No. 155356)
CHRISTINE M. PAJAK
(CA State Bar No. 217173)
1901 Avenue of the Stars, 12th Floor
Los Angeles, CA 90067
Telephone: (310) 228-5600
E-mail: fmerola@stutman.com
ekarasik@stutman.com
cpajak@stutman.com

SHEA & CARLYON, LTD.
JAMES PATRICK SHEA
(Nevada State Bar No. 000405)
CANDACE C. CARLYON
(Nevada State Bar No. 002666)
SHLOMO S. SHERMAN
(Nevada State Bar No. 009688)
228 South Fourth Street, First Floor
Las Vegas, Nevada 89101
Telephone: (702) 471-7432
E-mail: jshea@sheacarlyon.com
ccarlyon@sheacarlyon.com
ssherman@sheacarlyon.com

*Counsel for the Official Committee of Equity Security Holders of
USA Capital First Trust Deed Fund, LLC*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:) BK-S-06-10725-LBR
USA COMMERCIAL MORTGAGE COMPANY) Chapter 11
Debtor)

In re:) BK-S-06-10726-LBR
USA CAPITAL REALTY ADVISORS, LLC,) Chapter 11
Debtor)

In re:) BK-S-06-10727-LBR
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,) Chapter 11
Debtor)

In re:) BK-S-06-10728-LBR
USA CAPITAL FIRST TRUST DEED FUND, LLC,) Chapter 11
Debtor.)

In re:) BK-S-06-10729-LBR
USA SECURITIES, LLC,) Chapter 11
Debtor.)

Affects

- ☐ All Debtors)
☒ USA Commercial Mortgage Co.)
☐ USA Securities, LLC)
☐ USA Capital Realty Advisors, LLC)
☐ USA Capital Diversified Trust Deed)
☒ USA Capital First Trust Deed Fund, LLC)

DATE: January 31, 2007
TIME: 9:30 a.m.

**ORDER RE SECOND OMNIBUS OBJECTION OF THE OFFICIAL COMMITTEE OF
EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC
TO MISFILED CLAIMS (AFFECTS DEBTORS USA COMMERCIAL MORTGAGE
CO. AND USA CAPITAL FIRST TRUST DEED FUND, LLC.)**

The Court having considered the Second Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC to Misfiled Claims (the "Objection")(Docket No. 2285), as modified by the Notice of Withdrawal of the Objection of the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC to Claim No. 138 Filed by James W. Shaw IRA Against USA Capital First Trust Deed Fund, LLC (the "Withdrawal")(Docket No. 2418); Candace C. Carlyon, Esq. of the law firm of Shea & Carlyon, Ltd. appearing on behalf of the movant (with any other appearances having been noted in open court); the Court having considered the Objection; adequate notice of the Objection having been given; and (except as to the Claim which is the subject of the Withdrawal), there having been no response filed to the Objection; and good cause appearing:

IT IS HEREBY ORDERED that the Objection is Granted, and the Claims listed on Exhibit "A" (the "Claims") hereto are disallowed; and

IT IS FURTHER ORDERED that, to the extent that the Claims were not timely filed in Case No. BK-S-06-10725-LBR (the "USACM Case"), the Claims shall be deemed to have been filed in the USACM Case, as of the date such Claims were filed in the FTDF Case, without prejudice to the rights of any party to object or otherwise respond to such Claims.

///

///

///

///

1 SUBMITTED BY:

2 SHEA & CARLYON, LTD.

3
4 CANDACE C. CARLYON, ESQ.
5 (Nevada Bar No. 002666)
6 228 South Fourth Street, First Floor
7 Las Vegas, Nevada 89101

8 and

9 STUTMAN, TREISTER & GLATT, P.C.
10 FRANK A. MEROLA
11 (CA State Bar No. 136934)
12 EVE H. KARASIK
13 (CA State Bar No. 155356)
14 CHRISTINE M. PAJAK
15 (CA State Bar No. 217173)
16 1901 Avenue of the Stars, 12th Floor
17 Los Angeles, CA 90067

18 APPROVED/DISAPPROVED:

19 RAY QUINNEY & NEBEKER, P.C.

20 /s/ Jeanette E. McPherson

21 ANNETTE W. JARVIS, ESQ.
22 36 South State Street, Suite 1400
23 P.O. Box 45385
24 Salt Lake City, UT 84145-0385

25 and

26 SCHWARTZER & McPHERSON
27 LENARD E. SCHWARTZER, ESQ.
28 JEANETTE E. McCPHERSON, ESQ.
2850 South Jones Blvd., Suite 1
Las Vegas, NV 89146
Attorneys for the Debtors and Debtors in
Possession

APPROVED/DISAPPROVED:

LEWIS & ROCA


ROB CHARLES, ESQ.
3993 Howard Hughes Pkwy.
Suite 600
Las Vegas, Nevada 89169

and

LEWIS & ROCA
SUSAN FREEMAN, ESQ.
40 N. Central Ave., Suite 1900
Phoenix, AZ 85004
Attorneys for the Official Unsecured Creditors
Committee of USA Commercial Mortgage
Company

1 SUBMITTED BY:

2 SHEA & CARLYON, LTD.

3 
4 CANDACE C. CARLYON, ESQ.
5 (Nevada Bar No. 002666)
6 228 South Fourth Street, First Floor
Las Vegas, Nevada 89101

7 and

8 STUTMAN, TREISTER & GLATT, P.C.
9 FRANK A. MEROLA
(CA State Bar No. 136934)
10 EVE H. KARASIK
(CA State Bar No. 155356)
11 CHRISTINE M. PAJAK
(CA State Bar No. 217173)
12 1901 Avenue of the Stars, 12th Floor
13 Los Angeles, CA 90067

14 APPROVED/DISAPPROVED:

15 RAY QUINNEY & NEBEKER, P.C.


16
17
18 ANNETTE W. JARVIS, ESQ.
19 36 South State Street, Suite 1400
20 P.O. Box 45385
Salt Lake City, UT 84145-0385

21 and

22 SCHWARTZER & McPHERSON
23 LENARD E. SCHWARTZER, ESQ.
24 JEANETTE E. McCPHERSON, ESQ.
25 2850 South Jones Blvd., Suite 1
Las Vegas, NV 89146
26 Attorneys for the Debtors and Debtors in
Possession

APPROVED/DISAPPROVED:

LEWIS ^{CA} ROCA ^{CA} LLP


ROB CHARLES, ESQ.
3993 Howard Hughes Pkwy.
Suite 600
Las Vegas, Nevada 89169

and

LEWIS ^{CA} ROCA ^{CA} LLP
SUSAN FREEMAN, ESQ.
40 N. Central Ave., Suite 1900
Phoenix, AZ 85004
Attorneys for the Official Unsecured Creditors
Committee of USA Commercial Mortgage
Company

APPROVED/DISAPPROVED:

ORRICK, HERRINGTON & SUTCLIFFE

/s/ Anne M. Loraditch

MARC A. LEVINSON, ESQ.
400 Capitol Mall, Suite 3000
Sacramento, CA 95814

and

BECKLEY SINGLETON, CHTD.

BOB L. OLSON, ESQ.

ANNE M. LORADITCH, ESQ.

530 Las Vegas Boulevard South

Las Vegas, NV 89101

Attorneys for the Official Committee of

Equity Security Holders of USA Capital

Diversified Trust Deed Fund, LLC

APPROVED/DISAPPROVED:

McCULLOUGH & ASSOCIATES, LTD.

AARON R. DEAN, ESQ.

601 S. Rancho Drive, #A-10

Las Vegas, NV 89106

Attorneys for Sondra Skipworth Revocable

Truste Dated 11/28/01

REVIEWED:

OFFICE OF THE U.S. TRUSTEE

AUGUST B. LANDIS, ESQ.

SCOTT A. FARROW, ESQ.

300 Las Vegas Boulevard, Suite 4300

Las Vegas, NV 89101

APPROVED/DISAPPROVED:

GORDON & SILVER, LTD.

/s/ Greg E. Garman

GERALD M. GORDON, ESQ.

GREG E. GARMAN, ESQ.

3960 Howard Hughes Parkway, 9th Floor

Las Vegas, NV 89101

Attorneys for Official Committee of Holders of

Executory Contract Rights of USA

Commercial Mortgage

1 APPROVED/DISAPPROVED:

APPROVED/DISAPPROVED:

2 ORRICK, HERRINGTON & SUTCLIFFE

GORDON & SILVER, LTD.

3
4 MARC A. LEVINSON, ESQ.
5 400 Capitol Mall, Suite 3000
6 Sacramento, CA 95814

7 and

8 BECKLEY SINGLETON, CHTD.

9 BOB L. OLSON, ESQ.

10 ANNE M. LORADITCH, ESQ.

11 530 Las Vegas Boulevard South

12 Las Vegas, NV 89101

Attorneys for the Official Committee of

Equity Security Holders of USA Capital

Diversified Trust Deed Fmd, LLC

GERALD M. GORDON, ESQ.

GREG E. GARMAN, ESQ.

3960 Howard Hughes Parkway, 9th Floor

Las Vegas, NV 89101

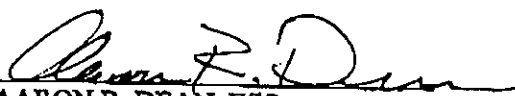
Attorneys for Official Committee of Holders of

Executory Contract Rights of USA

Commercial Mortgage

13 APPROVED/DISAPPROVED:

14 McCULLOUGH & ASSOCIATES, LTD.

15
16 
17 AARON R. DEAN, ESQ.

601 S. Rancho Drive, #A-10

Las Vegas, NV 89106

Attorneys for Sondra Skipworth Revocable

Truste Dated 11/28/01

20 REVIEWED:

21 OFFICE OF THE U.S. TRUSTEE

22
23
24 AUGUST B. LANDIS, ESQ.

SCOTT A. FARROW, ESQ.

300 Las Vegas Boulevard, Suite 4300

Las Vegas, NV 89101

APPROVED/DISAPPROVED:

APPROVED/DISAPPROVED:

ORRICK, HERRINGTON & SUTCLIFFE

GORDON & SILVER, LTD.

MARC A. LEVINSON, ESQ.
400 Capitol Mall, Suite 3000
Sacramento, CA 95814

GERALD M. GORDON, ESQ.
GREG E. GARMAN, ESQ.
3960 Howard Hughes Parkway, 9th Floor
Las Vegas, NV 89101

and

Attorneys for Official Committee of Holders of
Executory Contract Rights of USA
Commercial Mortgage

BECKLEY SINGLETON, CHTD.

BOB L. OLSON, ESQ.

ANNE M. LORADITCH, ESQ.

530 Las Vegas Boulevard South

Las Vegas, NV 89101

Attorneys for the Official Committee of

Equity Security Holders of USA Capital

Diversified Trust Deed Fund, LLC

APPROVED/DISAPPROVED:

McCULLOUGH & ASSOCIATES, LTD.

AARON R. DEAN, ESQ.

601 S. Rancho Drive, #A-10

Las Vegas, NV 89106

Attorneys for Sondra Skipworth Revocable

Trust Dated 11/28/01

REVIEWED:

OFFICE OF THE U.S. TRUSTEE

AUGUST B. LANDIS, ESQ.

SCOTT A. FARROW, ESQ.

300 Las Vegas Boulevard, Suite 4300

Las Vegas, NV 89101

RULE 9021 DECLARATION

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☐ I have delivered a copy of proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection and each has:
- ☒ approved the form of this order;
- ☐ waived signature in open court; and/or
- ☐ failed to file and serve papers in accordance with LR 9021(c).
- ☐ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection and all have either approved the form of this order, waived the right to review the order, failed to file and serve papers in accordance with LR 9021(c) and the following have disapproved the order:
- ☐ No opposition was filed to the motion and no other party or counsel appeared at the hearing.

DATED this 6th day of February, 2007.

SHEA & CARLYON, LTD.



CANDACE C. CARLYON, ESQ.
Nevada Bar No. 002666
228 S. Fourth Street, 1st Floor
Las Vegas, NV 89101

EXHIBIT “A”

EXHIBIT A

<u>CLAIM NO.</u>	<u>CREDITOR</u>	<u>CLAIM AMOUNT</u>
43	Daniel O. Carlton & Takeko Carlton Revocable Trust Dated 4/30/97	\$17,260.84
44	Daniel O. Carlton & Takeko Carlton Revocable Trust Dated 4/30/97	\$75,000.00
45	Daniel O. Carlton & Takeko Carlton Revocable Trust Dated 4/30/97	\$55,000.00
46	Daniel O. Carlton & Takeko Carlton Revocable Trust Dated 4/30/97	\$55,000.00
49	Daniel O. Carlton & Takeko Carlton Revocable Trust Dated 4/30/97	\$50,000.00
50	Lawrence J. Aronson & Henrietta Aronson	\$100,000.00
51	Mollie Shoichet & Henrietta Aronson	\$100,000.00
52	Buckwald Revocable Trust Dated 2/11/92	\$50,807.00
54	Phillip Darin Goforth & Francesca M. Goforth	\$50,000.00
57	Melinda Estevez & Richard David Estevez Acct. # 2	\$331.52
58	Melinda Estevez & Richard David Estevez Acct. # 1	\$51,095.00
59	Melinda Estevez & Richard David Estevez Acct. # 3	\$68,000.0
60	The Evo E. Zepponi and Billie D. Zepponi Family Trust Under Agreement Dated 2/9/1983	\$3,961.66
61	Iona Pete Bakas Halliday	\$50,000 plus accrued interest
62	Lauren J. Gilbert & Erin M. Gilbert	\$50,000.00

<u>CLAIM NO.</u>	<u>CREDITOR</u>	<u>CLAIM AMOUNT</u>
63	Lauren J. Gilbert	\$25,000.00
67	Michael W. Carlton & Helen I Carlton	No amount stated.
74	Sondra Skipworth Revocable Trust Dated 11/28/01	\$100,000
75	Donnolo Family Trust DTD 8/24/88; Joseph & Loretta Donnolo Trustees	\$258,705.71
76	Richard L. Younge IRA	\$150,000.00 plus interest
78	Edwin C. Hansen & Rachel M. Hansen	\$130,000 plus interest
79	Center State Beverage, Inc.	\$86,608.00
81	Layne Family Trust, Bruce & Sherry Layne	\$240,000.00
86	Karen Petersen Tyndall Trust Dated 3/9/94	\$1,115,915.59
87	KPT Irrevocable Trust Dated 7/16/99	\$202,866.38
88	KPT Irrevocable Trust Dated 7/16/99	\$202,866.38
92	Robert Carollo and Beverley Carollo	\$196,094.65 plus interest
93	Arnold Rosenthal	\$500.00
95	Victoria Smith	\$38,000.00
101	L Kanani Cohune	\$51,617.88
113	Michael Baginski	\$288,283.00
116	Karen Petersen Tyndall Trust Dated 3/9/94	\$1,115,915.59
117	KPT Irrevocable Trust Dated 7/16/99	\$202,866.38
121	James J. Lee, Esq.	\$200,000.00
122	Law Offices of James J. Lee	\$200,000.00

<u>CLAIM NO.</u>	<u>CREDITOR</u>	<u>CLAIM AMOUNT</u>
126	William Chad Berry	\$200,000.00
130	RDJ Investments	\$200,000.00
131	Richard N. Anderson TTE, Richard N. Anderson Separate Property	\$200,000.00
132	Craig Zager SEP IRA	\$65,000.00
139	Curtis R. & Terri L. Colagross	\$106,000.00